

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 237A.5, the Department of Human Services amends Chapter 109, “Child Care Centers,” and Chapter 110, “Child Development Homes,” Iowa Administrative Code.

These amendments eliminate the requirement for the Department to conduct repeat record check evaluations of transgressions already evaluated on individuals as they move from employer to employer. As employees move from employer to employer, they will still be required to undergo the record check process; however, transgressions that have already been evaluated will not need to be evaluated again as long as certain conditions are met.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0258C** on August 8, 2012. The Department did not receive any comments during the comment period. These amendments are identical to those published under Notice of Intended Action.

These amendments do not provide for waivers because the amendments confer a benefit on all persons affected. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 237A.5 as amended by 2012 Iowa Acts, Senate File 2164, section 2.

These amendments will become effective January 1, 2013.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subparagraph **109.6(6)“g”(4)**:

(4) When a person subject to a record check has a transgression that has been determined in a previous evaluation not to warrant prohibition of the person’s involvement with child care and has no subsequent transgressions, an exemption from reevaluation of the latest record check is authorized. The person may commence employment with another child care facility in accordance with the department’s previous evaluation. The exemption is subject to all of the following conditions:

1. The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.
2. Any restrictions placed on the person’s employment by the department in the previous evaluation shall remain applicable in the person’s subsequent employment.
3. The person subject to the record check has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer or the previous employer provides to the subsequent employer the previous evaluation from the person’s personnel file pursuant to the person’s authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record check shall be reevaluated.
4. The subsequent employer may request a reevaluation of the record check and may employ the person while the reevaluation is being performed.

ITEM 2. Adopt the following **new** subparagraph **110.7(3)“c”(4)**:

(4) When a person subject to a record check has a transgression that has been determined in a previous evaluation not to warrant prohibition of the person’s involvement with child care and has no subsequent transgressions, an exemption from reevaluation of the latest record check is authorized. The person may commence employment with another child care facility in accordance with the department’s previous evaluation. The exemption is subject to all of the following conditions:

1. The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.
2. Any restrictions placed on the person’s employment by the department in the previous evaluation shall remain applicable in the person’s subsequent employment.

3. The person subject to the record check has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer or the previous employer provides to the subsequent employer the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record check shall be reevaluated.

4. The subsequent employer may request a reevaluation of the record check and may employ the person while the reevaluation is being performed.

[Filed 10/10/12, effective 1/1/13]

[Published 10/31/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/31/12.